HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.NOs. 27042, 27052 and 27055 of 1999

DATED: 11.6.2007

W.P.No.27042 of 1999

Between:

R. Basanth Reddy

… Petitioner

and

The Special Officer and Competent
Authority, Urban Land Ceiling, Hyderabad

… Respondent

W.P.No.27052 of 1999

Between:

Smt. R. Nalini Devi

… Petitioner

and

The Special Officer and Competent
Authority, Urban Land Ceiling, Hyderabad

… Respondent

W.P.No.27055 of 1999

Between:

R. Prem Reddy

… Petitioner

and

The Special Officer and Competent
Authority, Urban Land Ceiling, Hyderabad

… Respondent

HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.NOs. 27042, 27052 and 27055 of 1999

COMMON ORDER:

Since the subject matter involved in all these three writ petitions is one and the same, they can be disposed of by this common order.

The petitioners, who are the mother and her sons, independently approached this court by way of filing these writ petitions, questioning the notices dated 7.9.1999 issued under Section 10 (5) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act') and the notification issued under Section 10 (3) of the said Act, as arbitrary, illegal and without jurisdiction and further for a declaration that the petitioners do not hold any excess land within the meaning of the Act.

The brief facts of the case are that the petitioners are the owners and possessors of agricultural lands in different extents in Sy.No.55 (Part) and 56 (Part) situated at Karmanghat, Ranga Reddy District. They filed declarations before the competent authority under the impression that the lands fall within the urban agglomeration.

However, the petitioners were served with notices issued under Section 10 (5) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act') and the notification issued under Section 10 (3) of the said Act dated 7.9.1999, calling upon them to surrender the excess lands, which were absolutely deemed to be vested with the State Government, free from all encumbrances. The grievance of the petitioners in a nutshell is that the Government issued G.O.Ms.No.733 dated 31.10.1988 exempting vacant lands to a maximum extent of Ac.5.00 and though the petitioners own an extent of less than Ac.5.00, the respondent is trying to interfere with their peaceful possession on the ground that the land is vested with the Government.

The sole ground urged by the learned counsel appearing for the respondent is that the said G.O.Ms.No.733 has come into existence w.e.f. 31.10.1988, whereas the orders under Section 8 (4) of the Act were issued on different dates, prior to the issuance of the said G.O., and as such the said G.O., has no application.

Having heard both the counsel, this court is of the view that the point involved in these cases, in fact, was decided by this court as well as the Supreme Court in a number of judgments, holding that if the land is situated in the peripheral area and if the declarant has not availed the benefit for an area exceeding Ac.5.00, further proceedings, such as, notification under sub-sections 3 and 5 of Section 10 of the Act have to be ignored. It is further held that if the benefits under the said G.O.Ms.No.733 are not available to them, be it on account of the fact that the land is not within the peripheral limits or the declarant had

availed the benefit for an area in excess of Ac.5.00, no exception can be taken to such proceedings.

Simply on the ground that the notification issued under Section 8 (4) was prior to the issuance of the G.O.Ms.No.733, it cannot be said that the petitioners are not entitled to the benefits of the said G.O.

Accordingly, these three writ petitions are allowed and the notices dated 7.9.1999 issued under Section 10 (5) of the Act and the consequent proceedings issued on 8.7.1999 are hereby set aside. No order as to costs.

GOPALA KRISHNA TAMADA, J

Date: 11.6.2007
cvm